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Testimony of Lieutenant Colonel Oliver North before the House Foreign Affairs
Committee
Briefing ID: 18141 (623 lines)

TESTIMONY OF LIEUTENANT COLONEL OLIVER NORTH
BEFORE THE HOUSE FOREIGN AFFAIRS COMMITTEE

TUESDAY, DECEMBER 9, 1986

CHAIRMAN FASCELL: The Committee will please be in order. Let's get settled again. We have another witness here. I want to thank everyone for their cooperation. I want to say right at the outset that I will proceed in regular order. From now on--I've tried to be a little lenient, that does not work; therefore, I will go strictly by the book. And I would ask members on both sides, please cooperate.

Our next witness is Lt. Col. Oliver North, accompanied by his attorney, I believe. Sir, would you identify yourself for the record, the attorney please, just so we will know.

MR. SULLIVAN: Good morning, Mr. Chairman. My name is Brendan Sullivan of the law firm of Williams and Connolly. With me is Terrence O'Donnell and Barry Simon.

CHAIRMAN FASCELL: And you represent Lt. Col. Oliver North?

MR. SULLIVAN: Yes sir, we do.

CHAIRMAN FASCELL: Thank you. Colonel, would you stand up please and let me administer oath.

(THE WITNESS WAS DULY SWORN)

CHAIRMAN FASCELL: Thank you very much, Colonel. You're duly sworn. Be seated.

Let me just say very briefly that I am very grateful to you and your lawyer for cooperating with the Committee to make this appearance, as an indication of your willingness to cooperate with the Committee. As you know, we've held these hearings as a matter of trying to establish to the extent possible an open record so that the Congress and the American people can understand what happened in this case. We haven't been eminently successful in keeping it all open,

LEGI-SLATE Report

Page 2

December 10, 1986

but we've gotten a great deal on the open record that's official. And to the extent possible that we can take the mass of facts and other data that have appeared constantly in the media and make it part of the official record to that extent, we have been very successful. And to all of those who have cooperated with us in this endeavor we're extremely grateful.

And, our policy here, as you know, is, we are not, we will cooperate, of course, with the independent counsel with whatever documents or records we have. We are not the investigative committee of the House of Representatives. They will go into all of the details with respect to the matters from day one to the end, but as the Foreign Affairs Committee, we have a deep interest and concern in the formulation, implementation of our foreign policy and what seems to have happened to it during the course of this event where normal procedures, understandable methods, agencies, individuals who were

bypassed in an effort to formulate a policy. And so our concern is how did this come about, what do we need to do about it, et cetera.

So, in that vein, we have proceeded, and again, I thank you for you and your lawyer coming here to show your interest in that endeavor.

Mr. Broomfield.

MR. BROOMFIELD: Mr. Chairman, I just merely want to join you in thanking Colonel North and his lawyer for being here today, and obviously he is one of the principal persons that probably can unravel this problem that we're confronted and trying to get the facts on the Iranian initiative. I don't know how much you can tell us this morning, but whatever you can will be very helpful. We had, yesterday we had Secretary Shultz and we had Bud McFarlane. And just a few moments ago we had Admiral Poindexter. But I think you're probably one of the key ones because you were so deeply involved. And whatever you can give the Committee this morning, Colonel, will be very much appreciated.

MR. : Will the Gentleman yield, please?

CHAIRMAN FASCELL: He's talking to you.

MR. BROOMFIELD: I'd be glad to yield.

MR. : Mr. Chairman, I just want to call attention to Bill (sic) North. You know, he comes from the Albany capital district area that I represent, and Colonel, I just want you to know, that area has sent more Marines to the Service of our country than any other part of the country. And all the people back home know what you wear on your chest there, and we deeply admire and respect what you have done for your country, with two Purple Hearts, with the Silver Star, with the planning of the Grenada invasion--you are truly a great American, Colonel, and we back home deeply admire and respect your past history. Just wanted to say that, sir.

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CHAIRMAN FASCELL: Colonel, we appreciate your being here. And

LEGI-SLATE Report

Page 3

December 10, 1986

one of the purposes also is to make this forum available to you to say whatever you want to say at this point.

MR. SULLIVAN: Mr. Chairman, we appreciate the opening remarks of the Chairman and the other Congressmen. It should come as no surprise that responsible counsel will advise the Colonel to assert his Constitutional right not to testify. That is what we have done, and that is what we will continue to do. In that regard, the Colonel has a brief statement to make to the Committee, and we appreciate the opportunity to do so.

CHAIRMAN FASCELL: Thank you, Mr. Sullivan. Lt. Col. North.

LT. COL. NORTH: Thank you, Mr. Chairman, Members of the Committee, and thank you, Mr. Sullivan.

I am anxious, as I know that you are, to put this matter behind us and to facilitate the important business of protecting the national security interests of the United States. I share your desire to put this issue to rest quickly and fully, and to further that end, I want to be able to provide a full exposition of the facts, as I know them, on this matter.

In that regard, you know that I am and have been since June of 1968, an officer of the United States Marine Corps. As such, I have taken an oath to support and defend the Constitution of the United States. I have tried to do so honorably. In the course of investigating this matter, members of this body, others, have suggested that statutes may have been violated, and an independent counsel has been requested by the Attorney General.

Despite my very strong desire to provide Congress with my recollection of the facts pertaining to this matter, counsel has advised me that I should avail myself of the protections provided by that same Constitution that I have fought to support and defend. I intend to follow that advice exactly.

CHAIRMAN FASCELL: Thank you very much, Colonel. Mr. Broomfield.

MR. BROOMFIELD: Mr. Chairman, I, at this point, would like to ask that the following three documents appear in the record: The Attorney General's application of December 4th, 1986, to the US Court of Appeals for appointment of an independent counsel; the Attorney General's motion of the same date for leave to disclose the application; and finally, the court's order of December 8, 1986, granting the Attorney General motion for leave to disclose the application.

CHAIRMAN FASCELL: Without objection. Mr. Hamilton.

MR. HAMILTON: Colonel North, did you make the decision to put some of the proceeds of the arms sales to Iran into an account for the use of the Contras.

MR. SULLIVAN: Excuse me, Congressman, I would hope that you

LEGI-SLATE Report

Page 4

December 10, 1986

would not ask a number of questions which simply elicit a repetitive assertion of the Colonel's Constitutional rights --

MR. HAMILTON: This is my first question, counsel. I haven't asked a series of questions. I've only asked one. I would like the Colonel to invoke the Fifth Amendment, if that's his choice.

MR. SULLIVAN: Well, sir, I was making a pre-emptive strike of sorts here.

MR. HAMILTON: I am asking a question of the Colonel, and I would like to have him respond.

MR. SULLIVAN: Again, if I may, he will respond, asserting his Constitutional right not to --

MR. HAMILTON: I would like the Colonel to assert his Constitutional right, counsel.

MR. SULLIVAN: And I would request that after the Colonel asserts his rights sir, that you not ask other question that --

MR. HAMILTON: I will abide by your request.

MR. SULLIVAN: Thank you, sir.

LT. COL. NORTH: Mr. Hamilton, on the advice of counsel, I respectfully and regretfully decline to answer the question based on my Constitutional rights.

MR. HAMILTON: It is my understanding, then, Colonel, that you will not respond to any of the questions which we might have with regard to the so-called Iranian initiative. I noted your counsel's statement a moment ago that he advised you not to testify, and then he said that he would continue to do so. I also noted your statement, which I accept, that you want to make a full exposition of the facts, and I am sure you do. And I hope that you and the Congress will be able to work out, as I think we will, in time, an appropriate way in which we will have the opportunity to hear from you, because I think you recognize how important it is to the country that we do that.

LT. COL. NORTH: I do, Mr. Hamilton, and I don't think there is another person in American that wants to tell this story as much as I do, sir.

MR. HAMILTON: Thank you, sir.

CHAIRMAN FASCELL: Now that we've established the record at this point, unless there's objection from Mr. Lantos, I was going to say we should dismiss the witness. Mr. Lantos, I hope you don't as a question that would --

MR. LANTOS: Have no concern, Mr. Chairman.

CHAIRMAN FASCELL: Excuse me, Mr. Lantos, I have an objection,

LEGI-SLATE Report

Page 5

December 10, 1986

I can't do that. I'll get to you in just a minute. I can't do that. I'm sorry. I can't recognize you out of order. There's been an objection. All right. Mr. Gilman, do you have anything?

MR. GILMAN: Only that I would hope that Colonel North, at some future time when he is able to make a statement, could advise us of

any constructive recommendations of how best to redefine the authority of the National Security Council in contrast to the responsibilities of the State Department.

CHAIRMAN FASCELL: Mr. Yatron.

MR. YATRON: Mr. Chairman, I have several questions prepared for Colonel North, but under the circumstances I would like to submit them for the record.

CHAIRMAN FASCELL: Without objection. Mr. Lagomarsino. Mr. Leach.

MR. LEACH: Mr. Chairman, I have no questions, but I would like to ask one thing of counsel. Because this is an unprecedented circumstance and we don't prolong the anguish, can you tell us, has the Department of Defense Legal Office advised officers one way or another in whether they should cooperate with Congress on issues of this nature? Do they have a formal position on officers taking the Fifth Amendment? Has there been any involvement of Defense in this, in setting a precedent for future roles with the Congress of the United States?

MR. SULLIVAN: Mr. Congressman, I know of no policy from the Department of Defense, except I assume that they adhere to the Constitution of the United States like every other agency of the government, and I don't expect that they would ever suggest that an officer should not assert a Constitutional right if it were proper for him to do so.

MR. LEACH: Thank you very much.

CHAIRMAN FASCELL: Mr. Solarz.

MR. SOLARZ: Mr. Chairman, I just want to clarify for the record by asking Colonel North whether it is in fact his intention not to answer any questions whatsoever this morning, even those that do not relate to the Iranian affair or to any of the activities in which Colonel North is alleged

to have engaged in his capacity as member of the staff of the National Security Council. In other words, if there were questions on policy or process that were not related to the Iranian affair or to the contras, would you be prepared to answer them or would you feel obligated, Colonel, to take the Fifth with respect to those questions as well?

COUNSEL: The Colonel will take counsel's advice and refuse to answer any question which relates in any way to service to

LEGI-SLATE Report

Page 6

December 10, 1986

the country on the NSC.

CHAIRMAN FASCELL: Mr. Roth?

MR. ROTH: No questions, Mr. Chairman.

CHAIRMAN FASCELL: Mr. Bonker?

MR. BONKER: Thank you, Mr. Chairman. Like Mr. Hamilton, I am distressed to see high-ranking officers and highly placed officials in the White House take the Fifth Amendment. I think the sooner we get this ordeal behind us, the better for the President and for the country. But in the opening statement, Colonel North said that he was anxious to put the matter to rest and to get it behind us and I believe he is genuine in that statement and that he will provide a full exposition of facts as he knows them and wants to provide those facts to the Congress. I would like to ask Mr. Sullivan, is there a timetable by which the Colonel will be reappearing before the Congress to the United States and as he has noted this morning, make a full exposition of the facts to the Congress and to the American people?

CHAIRMAN FASCELL: Mr. Beckler?

MR. BECKLER: Mr. Congressman, we have no timetable. Lawyers don't make timetables. Congressional committees and judges and Attorney Generals make timetables. We respond to them.

MR. BONKER: Well, any time between now and the end of the year or in January of next year, do you think the Colonel will be prepared to come before the Congress?

MR. BECKLER: The Colonel is eager to talk to the Congress. We simply want the appropriate forum and the proper protection under law that any citizen is entitled to in these circumstances.

MR. BONKER: Thank you, Mr. Chairman.

CHAIRMAN FASCELL: Ms. Snowe?

MS. SNOWE: Mr. Chairman, I have a number of questions, but, obviously, I will not ask them under the circumstances. I just hope that Colonel North will be able to provide a full explanation as soon as possible to the American people. Thank you.

CHAIRMAN FASCELL: Mr. Studds? (Pause.) Mr. Solomon?

MR. SOLOMON: No questions right now.

CHAIRMAN FASCELL: Mr. Mica?

MR. MICA: I have no question, but I'd just make this comment. In this years that I have been here, I don't think I've ever seen more anguish or distress on the face of an individual who's testified or hasn't testified before this committee. I don't know what the story will ultimately tell us, but I must tell you I feel a

LEGI-SLATE Report

Page 7

December 10, 1986

great deal of compassion and in my heart I truly believe that Colonel North has acted, from everything I have seen, in the best interests of the country and to do what he thought was right. Laws may have been broken. There are many people in this situation I do believe, but from what I have seen here today and what I have read, I wish you the very best.

CHAIRMAN FASCELL: Mr. Bereuter?

MR. BEREUTER: Mr. Chairman, I'm not sure it's been formally done, but I would ask generally for my own questions and questions of all members to be submitted in writing.

CHAIRMAN FASCELL: Without objection, so ordered. Mr. Barnes?

MR. BARNES: No questions, Mr. Chairman.

CHAIRMAN FASCELL: Mr. Zschau?

MR. ZSCHAU: No questions.

CHAIRMAN FASCELL: Mr. Wolpe?

MR. WOLPE: No questions.

CHAIRMAN FASCELL: Mr. Dornan?

MR. DORNAN: Thank you, Mr. Chairman. May I ask a biographical question, outside the service on the National Security Council? Colonel North, when an officer receives a decoration for heroism that is classified, where his fellow citizens are unable to learn why he was awarded that declaration, is there ever a time in the future, a set tradition, where that story is declassified?

LT. COL. NORTH: I do not know the answer to that, Mr. Dornan. I would note, however, that none of my decorations are classified.

MR. DORNAN: Because Time Magazine had reported that your Silver Star was classified.

LT. COL. NORTH: Sir, I don't believe everything I read in any magazine any more. (Laughter.)

MR. DORNAN: Well, I just have one observation. Almost a century ago, Rudyard Kipling wrote a rather tragic poem about the ingratitude of all peoples toward their military forces in time of peacetime and I'll just paraphrase the first lines. "He's olly (?) this and he's olly (?) that. Get 'im out of here, the brute. But he's the savior of his country when the guns begin to shoot." Thank you for your service, Colonel North.

MR. : -- To thine own self be true and -- (inaudible).

CHAIRMAN FASCELL: Mr. Crockett?

LEGI-SLATE Report

Page 8

December 10, 1986

MR. CROCKETT: Thank you, Mr. Chairman. I do have a question, but I'd like to precede it with a statement. I think any lawyer here who listens to these proceedings or is looking at them on TV is probably wondering what has happened to the myriad of Supreme Court decisions interpreting how the Fifth Amendment privilege is to be claimed. The law is pretty clear that the privilege belongs to the witness and not to the attorney. The attorney is not the one to claim it. He may advise his witness to claim it and the witness may opt to do so. In this case, throughout the proceedings, there has been an instance of the lawyer doing more talking than the witness himself. The second point I think that would confuse most of us is that the privilege can only be claimed with respect to a question which, on its face, could bring forth an answer that would tend to incriminate the witness. If there is no specific question asked, the court is in no position to determine whether or not the privilege is being properly claimed. Some time ago, back in the fifties, when I represented witnesses before the House Un-American Activities Committee, a client of mine proceeded to protest not only her innocence but her loyalty to the United States. And on cross-examination she was asked whether she was or ever had been a member of the Communist Party. I advised her to claim the privilege and she did. I argued that case before the United States Supreme Court before the United States Supreme Court on two occasions -- Brown vs. the United States. The government contended

that the privilege was waived when the witness began to protest her loyalty. Ultimately the Supreme Court ruled in accordance with the government's contention. Now, here this morning, Mr. North, you started off by saying, and I quote, "I've taken an oath to defend the constitution of the United States, and I've tried to do so honestly." It seems to me that statement in itself opens the door to questions whether or not your conduct in connection with the Iranian affair was an honest attempt on your part to comply with the Constitution. I don't want to go into that. I have one simple question. Were you fired by the President or did you resign?

COUNSEL: Congressman, I respectfully disagree with your interpretation that the --

MR. CROCKETT: No lawyers, no counsel, I want the witness himself to claim the privilege.

COUNSEL: He -- I'll respect that, Congressman --

MR. CROCKETT: Mr. Chairman, I ask for a ruling by the chair.

CHAIRMAN FASCELL: Witness has --

MR. CROCKETT: --(inaudible) that question is --

CHAIRMAN FASCELL: Witness is about to respond, Mr. Crockett.

MR. CROCKETT: -- to be answered by the witness.

CHAIRMAN FASCELL: Witness is about to respond, Mr. Crockett.

LEGI-SLATE Report

Page 9

December 10, 1986

LT. COL. NORTH: Congressman Crockett, on the advice of counsel, I respectfully and regretfully decline to answer the question based on my constitutional rights.

MR. CROCKETT: How does the answer to that question tend to incriminate you, whether you were fired or whether you resigned.

COUNSEL: Congressman, that's an improper question, because--

MR. CROCKETT: It's not for you, counsel, to rule on the--

COUNSEL: it elicits a --

MR. CROCKETT: propriety of the question, that's the function of the chairman of this committee.

COUNSEL: Well I'm not going to rule, congressman, I'm merely stating my objection so the chairman can make an intelligent ruling on the issue.

MR. CROCKETT: I ask the chairman on the ruling on the --

CHAIRMAN FASCELL: Well, I'd like to hear the gentleman's objection first, Judge, if I could. After all, he is represented by counsel, he's here by agreement, it was never my intention to conduct a trial here today, or a criminal investigation. It was an effort to establish an open record. A man's entitled to a counsel, as far as I'm concerned, entitled to state his rights, counsel's objecting to your question, I'd like to hear what it is. He's entitled to have his objection, at least, put on the record.

MR. SULLIVAN (counsel): Mr. Chairman, the basis --

CHAIRMAN FASCELL: Mr. Sullivan?

MR. SULLIVAN: Yes sir. The basis for the objection is that the very question tries to elicit the rationale or the thinking process that counsel and client arrive at or utilize to arrive at a decision to assert the constitutional protection.

CHAIRMAN FASCELL: Well the chair will rule that it's an effort, if you answer the question, to pre-judge what his rights are.

MR. SULLIVAN: Thank you sir.

MR. CROCKETT: Thank you Mr. Chairman.

CHAIRMAN FASCELL: Mr. Smith?

MR. SMITH: Thank you, Mr. Chairman. I do, like other members of the committee, have a number of questions, but out of respect for Col. North and not to prolong this proceeding I will not offer those question. But I do want to compliment the chairman of the Full Foreign Affairs Committee, Dante Fascell, for, what I consider to be, his very fair and even-handed means by which he is conducting

LEGI-SLATE Report

Page 10

December 10, 1986

these hearings, particularly today. And I do want to say that I am encouraged by Col. North's own opening comments, that he, perhaps more than anyone else in America, wants to tell his story, and wants to get all of the facts out for all to see, but at the proper place, at the appropriate time.

CHAIRMAN FASCELL: Mr. Gejdenson.

MR. SMITH: Thank you, Mr. Chairman.

MR. GEJDENSON: No questions, Mr. Chairman.

CHAIRMAN FASCELL: Mr. Mack?

MR. MACK: No questions.

CHAIRMAN FASCELL: Mr. Dymally?

MR. DYMALLY: Mr. Chairman, I'm reading from the Secretary of State, Mr. Shultz's statement yesterday, and I quote, "If a public servant is not prepared to tell the truth, he has no business being a public servant, oath or no oath. It is as simple as that." Thank you, Mr. Chairman.

CHAIRMAN FASCELL: Mr. DeWine?

MR. DEWINE: Thank you, Mr. Chairman. I would like to compliment you for the way you've conducted these hearings, and also compliment you personally for your respect for the Fifth Amendment. I think it is rather ironic that some -- several, two or three of the more liberal members of this committee, seem to think that when you put on a uniform, and when you serve your country, you give up your basic constitutional rights.

CHAIRMAN FASCELL: I don't --

MR. DEWINE: I know you don't agree with that, but I think that some of the comments have been disparaging in regard to people invoking their Fifth Amendment.

CHAIRMAN FASCELL: Mr. DeWine, with all respect, believe me I don't interpret any of the questions or comments this morning to be characterized in the way you've just characterized it. This has been a totally bi-partisan effort with cooperation to try to build a public record. And I don't think we need to get into characterizing political motives, or judge -- make judgments about comments. That's up to every individual. Mr. Lantos?

MR. LANTOS: Thank you, Mr. Chairman, and I, too, want to commend you for the outstanding manner in which you have conducted this hearing. I am privileged, and I don't know how many of us on this committee are privileged, to know Colonel North. It gives me a great deal of pleasure publicly, here and now, to express my respect, affection, and admiration for him. I read in the paper this morning, Colonel, that your colleagues, your classmates at Annapolis, established a fund

LEGI-SLATE Report

Page 11

December 10, 1986

to cover any legal expenses that might be incurred in these proceedings. It will my privilege to contribute to that fund as I hope many of my colleagues and I know hundreds of thousands of Americans will want to do. I am not a lawyer. I am not in a position to judge now nor will I be later whether laws were violated or not. That is no my concern at the moment. But I must say to you that I am proud to be an American as you are. Thank you, Mr. Chairman.

CHAIRMAN FASCELL: Mr. Burton?

MR. BURTON: I have no questions, Mr. Chairman.

CHAIRMAN FASCELL: Mr. Kostmayer?

(No audible response.)

CHAIRMAN FASCELL: Mr. McCain?

MR. MCCAIN: No questions, Mr. Chairman.

CHAIRMAN FASCELL: Mr. Reid?

MR. REID: I have no questions.

CHAIRMAN FASCELL: Mr. Levine?

MR. LEVINE: Mr. Chairman, I have one question of counsel. And that is, Mr. Chairman, counsel -- is Colonel North seeking immunity?

MR. SULLIVAN: We are not seeking any kind of immunity. We are simply upholding his rights under the Constitution. It is not our decision about immunity.

MR. LEVINE: He is not actively seeking immunity.

MR. SULLIVAN: It may be an independent counsel's decision. It may be a congressional committee's decision under 18 U.S.C., Section 6005, but it's not our decision. That's up to the Congress or to the court.

MR. LEVINE: He is not actively seeking immunity at this time, is that correct?

MR. SULLIVAN: That is correct.

MR. LEVINE: No questions, Mr. Chairman.

CHAIRMAN FASCELL: Mr. Feighan?

MR. FEIGHAN: I have no questions.

CHAIRMAN FASCELL: Mr. Udall?

(No audible response.)

LEGI-SLATE Report

Page 12

December 10, 1986

CHAIRMAN FASCELL: Thank you very much, Lieutenant Colonel North and Mr. Sullivan. I want to express our appreciation to you, for your willingness to cooperate to the extent possible with your constitutional rights. Fortunately, in this country every man is innocent until proven guilty and there isn't a first scintilla that I know yet that exists but the record will ultimately speak for itself. And I respect your thoughts that as American, that you want to tell this entire story, at some time get it out so the American people can fully understand what happened and what your role was, because I have no illusions yet, and I don't want to prejudge the record--the record will be long. But I just have real reservation in my own mind that an Admiral and a Lieutenant Colonel could on their own conceivably carry out a major, worldwide foreign policy operation.

The Committee stands adjourned. The Committee for Foreign Affairs will meet 9:30 tomorrow morning in closed session to hear Mr. Casey of the CIA.

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